

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION

PAINTERS DISTRICT COUNCIL NO. 2,)
et al.,)
)
Plaintiffs,)
)
vs.) Case No. 4:08CV1212 AGF
)
CAPITAL RESTORATION & PAINTING)
CO.)
)
Defendant.)

ORDER

This matter is before the Court¹ on Plaintiffs' Motion to Compel Discovery and for Preliminary Injunction [Doc. #22]. Plaintiffs are employee benefit plans and their trustees, and have alleged that Defendant is a corporation contractually obligated, under the terms of a collective bargaining agreement, to make weekly contributions to the funds on behalf of its employees, and to submit weekly contribution reports.

In their motion, Plaintiffs allege that Defendant has provided incomplete and/or contradictory answers to discovery requests, and they seek an order compelling a more complete response to Interrogatories 8 and 9. Plaintiffs also allege that Defendant is delinquent in filing weekly contribution reports, and seek a preliminary injunction ordering Defendant to submit delinquent reports as well as future contribution report forms, each week, as required by the collective bargaining agreement between Plaintiffs and Defendant until the expiration of the collective bargaining agreement. Defendant initially filed no response to Plaintiffs' motion, but following this Court's Order setting

¹ The parties have consented to the exercise of authority by the undersigned United States Magistrate Judge under 28 U.S.C. § 636(c).

this matter for a hearing, Defendant filed a response that attached as an exhibit copies of contribution reports from late February 2009 through August 25, 2009.

A hearing was held on September 10, 2009, at which time Plaintiffs acknowledged that the exhibit recently filed by Defendant does contain all delinquent reports through August 25, 2009. At the hearing, Defendant agreed that it would supplement its responses to Interrogatories 8 and 9 within seven (7) calendar days. Defendant also agreed to enter into an injunction requiring it to file any delinquent contribution reports and to file future contribution reports in a timely manner. In light of this agreement, Plaintiffs elected to waive their request for attorneys' fees at this time.

Accordingly, pursuant to the agreement of the parties,

IT IS HEREBY ORDERED that Plaintiffs' Motion to Compel and for Preliminary Injunction [Doc. #22] is **GRANTED**, as follows:

1. On or before **September 17, 2009**, Defendant shall supplement its answers to Interrogatories 8 and 9 to provide complete answers; and
2. The parties shall in good faith attempt to reach an agreement as to the terms of an order granting Plaintiffs preliminary injunctive relief requiring the timely filing by Defendant of contribution reports, and shall file such proposed order with the Court.

Audrey G. Fleissig
AUDREY G. FLEISSIG
UNITED STATES MAGISTRATE JUDGE

Dated this 10th day of September, 2009.